

October 25, 2002

Toni Farley
Director, Social Housing Branch
2nd Floor, 777 Bay Street
Toronto, Ontario
M5G 2E5

Dear Ms Farley:

Re: Improving the regulations to the *Social Housing Reform Act*

We are pleased to provide some recommendations for improving the regulations to the *Social Housing Reform Act*. Our proposals for change draw on:

- direct feedback from co-ops since the Act and regulations were implemented
- our participation in many local consultations across the province on the regulations, organized by service managers in the past two months
- discussions with the Ontario Regions Social Housing Group and ONPHA.

Regional CAO recommendations

We strongly endorse the set of recommendations recently forwarded to the Deputy Minister by the Regional CAOs. Many of the issues addressed in that document are also dealt with in the paper that CHF Ontario Region developed for our members before the consultations with service managers. Our paper, "*Downloading Details #17*", is attached. There is a high level of consensus among service managers, providers and the sector organizations on the recommendations included in our paper on:

- market rent households who become eligible for RGI assistance (recommendation 1)
- penalties for failure to report changes of information (recommendation 2)
- procedural timelines and requirements (recommendation 3)
- grounds for refusing an applicant (recommendation 4)
- indexing of the capital reserve contribution (recommendation 6)
- review of special priority status (recommendation 10)
- prescribed insurance coverage. (recommendation 11)

Please refer to the attached copy of *Downloading Details* for our additional comments on these issues.

Additional CHF Ontario Region recommendations

We are submitting with this letter additional recommendations addressing concerns expressed by co-ops. The recommendations deal with:

- the process for approving and refusing a co-op applicant
- rules for overhoused households
- overhoused households and the internal transfer list
- occupancy standards and the status of adult couples
- additional charges to co-op members
- rules for notices regarding refusal of applicants.
- regulations about pursuit of income, fraud control, etc.

We appreciate this opportunity to provide feedback on the impact and effectiveness of the *SHRA* regulations. We look forward to further discussions with the Ministry of Municipal Affairs and Housing before the recommendations for change are finalized.

Yours truly,

Original Signed by

Dale Reagan
Managing Director
Ontario Region

cc: Michael Fenn, Deputy Minister
Ed Sajecki, Assistant Deputy Minister

Attached:

- Improving the Program Rules under the *Social Housing Reform Act*
- “*Downloading Details #17*” August 2002
- Recommended changes to *SHRA* and Related Regulations (submitted to Deputy Minister by Regional CAOs)

**Improving the Program Rules under the
*Social Housing Reform Act***

**Recommendations submitted by the Co-operative Housing
Federation of Canada, Ontario Region
October 25, 2002**

Improving the Program Rules under the *Social Housing Reform Act*

We are pleased to respond to the invitation from the Ministry of Municipal Affairs and Housing to submit recommendations for improvements to the regulations to the *Social Housing Reform Act*.

Our recommendations come in two parts. First, we recommend the changes set out in the paper recently submitted to the Deputy Minister, Michael Fenn, by Regional CAOs. Second, we recommend the additional changes set out in this paper.

1. Process for approving and refusing an applicant (Reg. 339/01 S. 20(2)3.)

The issue

The *SHRA* regulations dealing with appeals of membership refusals set out requirements that conflict with the rules in the *Co-operative Corporations Act*.

The *Co-op Act* says that no one can become a member of a co-operative unless their application has been approved by the co-op's board of directors. This means that when someone has been refused admission to a housing co-operative they have, in most cases, been refused by the board. If their application is later re-considered, the final decision must also be made by the board. This *Co-op Act* requirement conflicts with the *SHRA* regulations which say that

An individual who participated in the making of the decision to refuse to offer the unit to the household shall not participate in an internal review of that decision.

The rules in the *Co-op Act* take precedence over the regulation and must be followed by co-ops.

CHF Ontario Region has produced a model *Social Housing Reform Act* Bylaw for co-ops that goes as far as possible to try to accommodate the requirements of the regulations about internal reviews of refusals. But the conflict with the *Co-op Act* cannot be completely avoided since co-op boards of directors have legislated responsibility for approving membership.

Proposed change

The regulations should be changed to recognize the legislated requirement for co-op boards to approve membership. The Ontario Region has brought this concern to the attention of the Ministry in a February 1, 2002 letter. (A copy of that letter is attached to this report). We recommend that the following wording be used [Reg. 339/01 S. 20(2)3]:

An individual who participated in the making of the decision to refuse to offer the unit to the household shall not participate in an internal review of that decision. This will not

apply to an individual who is a director of a non-profit housing co-operative and whose sole involvement in the decision being reviewed was as a director in connection with a board meeting to consider approving the decision.

2. Rules for overhoused households (Reg 298/01 S.33)

The issue

The regulations say that:

- anyone who is overhoused must be added to the co-op's internal transfer list, or to the municipality's central waiting list if the co-op does not have a unit of the appropriate size
- overhoused households who have not transferred internally after one year must be removed from the internal list and placed on the central waiting list (see #3 below for a recommendation on this).

The issue of overhousing and the potential need for members to move out of the co-op is a very serious and upsetting one for co-ops, particularly in the case of seniors.

Co-ops want a reasonable balance between concern about the expenditure of public funds and concern about the stability of co-op communities and fairness to members. The real problem is that there is not enough affordable housing for those who need it, and so there is enormous pressure on providers to make "good use of a scarce resource". The overhousing provisions in the regulations try to ensure "maximum use of the stock" but in so doing may undermine healthy communities. The "stock" is people's homes and communities, and every effort should be made to avoid unreasonable turnover and dislocation. We think that allowing some discretion to permit minimal overhousing, in particular circumstances, would achieve the necessary balance of interests.

Proposed change

There are a number of possible changes to the regulations that would allow service managers and providers to exercise some reasonable discretion in dealing with overhousing. We are proposing that one or some consideration of the following changes be made:

- The regulations could be amended to require a move when ". . . a household occupies a geared-to-income unit that is **more than one bedroom larger** than the largest unit in respect of which the household is eligible to receive RGI assistance . . ." This would mean that anyone with two or more extra bedrooms would have to be added to the co-op's internal transfer list or the central waiting list as appropriate. **This would allow people who are only minimally overhoused to remain in their units.** It would likely address the issue of seniors who become overhoused.

- Another option would be not to require households to move out of their co-op at any point if there is a unit of the appropriate size within the project. This would mean not adding households to the central waiting list if they are still overhoused after one year. They would remain on the co-op's internal transfer list until a unit of appropriate size becomes available.
- Alternatively, some extension over the current one-year limit might be a way of increasing the likelihood of members getting to stay in their co-op.
- The regulations could allow discretion when dealing with certain kinds of households and special circumstances. These might include:
 - ❑ seniors
 - ❑ long-term members (for example 5 years)
 - ❑ members with health, age or family challenges which make a move disturbing or dangerous (verification from a doctor could be required)
 - ❑ households who are waiting for a special needs unit
 - ❑ households with school-age children for whom a move would be disruptive

3. Overhoused households and the internal transfer list (Reg 339/01 S.11(2)(5))

The issue

The regulations say that an overhoused household must be placed on the co-op's internal transfer list and, if the household has not transferred internally after one year, they must be removed from the internal transfer list and placed on the central waiting list. Once removed from the internal list the household will have no priority for a unit in their own co-op and must wait on the central waiting list where they can refuse up to three offers.

These rules as they are written may increase the amount of time a household remains overhoused, and may also reduce their chances of staying in their own community.

Proposed change

Overhoused households should remain on the internal transfer list even after their names have been added to the central waiting list.

4. Occupancy standards and the status of adult couples (Reg 228/01.S4 (1))

The issue

The regulations include a definition of same-sex partners and spouses. This definition is used to determine the allocation of bedrooms when applying the provincial occupancy standards. An

adult couple defined as same-sex partners or spouses must share a bedroom. The definition depends on either:

- self-declaration, or
- co-habitation where there is evidence of financial support or dependence.

Co-op members have expressed concerns about the right of service managers (or providers where they have the delegated responsibility) to make decisions about the relationship of adult couples where there is no self-disclosure. The regulations say that the basis for the decision must be a judgement of financial dependency, not sexual factors. Nevertheless, there are concerns about the potential for service managers imposing “same-sex partner” or “spouse” status on people who do not want the label or do not fit into the category. The possible results may be embarrassment, breach of confidentiality, and improper determinations regarding sharing a bedroom.

Co-op members believe that two adults who live together should not be subject to public scrutiny of their personal relationship if they have not declared that they are spouses or same-sex partners. The recent court decision on the “Spouse in the House” rule (used to determine eligibility for assistance under the *Ontario Family Benefits Act*) might be relevant to a re-consideration of this part of the regulations.

Proposed change

The determination of the relationship of adult couples for purposes of applying occupancy standards should be based only on self-declaration of the individuals concerning their relationship.

5. Additional charges to co-op members (Reg 339/01.S22 (3))

The issue

The regulations restrict charges to co-op occupants to:

- the monthly housing charge
- any charge allowed under the *Tenant Protection Act*
- the initial membership fee
- the sector support levy.

Many co-ops have developed by-laws which allow additional charges for the enforcement of some key co-op responsibilities, including:

- fines for late payment of housing charges

- maintenance (damage) deposits.

When adopted as part of a by-law, duly approved by the members, such charges have been an effective way of encouraging members to act responsibly and of ensuring efficient management of the co-op. They also reduce the possibility of costly evictions. Co-ops operate under different legislation from non-profits. By-laws are democratically set by the members (with a two-thirds majority required), not imposed by the board or staff, and may be revisited at the will of the members at any time, in accordance with the procedures in the *Co-op Act*. The removal of the right to adopt additional charges is considered a serious threat to the autonomy of co-ops.

Proposed change

Add a paragraph under regulation 339/01 S22 to allow:

Any reasonable fees established by co-op members in a by-law for the enforcement of co-op policies and by-laws.

6. Rules for delivery of notices regarding refusal of applicants (339/01 S18)

The issue

The regulations set out rules for refusing applicants, including requirements for notification and conducting internal reviews. But there are no rules for the delivery of such notices. Regulation 298/01 S59 includes general rules for notices, but these apply only to RGI decisions in Part V of the Act.

Proposed change

Add a section in Regulation 339/01 dealing with the delivery of notices of refusal. The language could be the same as that in Regulation 298/01 S59.

7. Regulations about pursuit of income, fraud control etc. (Part IX of the Act and associated sections of Reg. 339/01)

The issue

The co-op sector is very concerned about parts of the Act and regulations that treat all RGI households as potential criminals, and providers and service managers as police. This approach is consistent with the approach taken in other provincial legislation and policy affecting recipients of social assistance.

Co-ops have viewed households of all types as assets to the community. RGI households have the same relationship with the co-op as market households. As members they are expected to make the same contribution and they deserve the same rights and treatment as other members. The *SHRA* and regulations, however, treat RGI households, not as contributors but only as recipients of government assistance who must give up many of their community rights as the price for this help.

Proposal

Piecemeal changes will not be enough to get rid of the negative attitude to RGI households that runs through the Act and regulations. We recommend against any changes to the regulations that would promote further integration of social housing rules and administration with those of Ontario Works.